

**BEFORE THE APPEALS BOARD  
FOR THE  
KANSAS DIVISION OF WORKERS COMPENSATION**

**RUTH ELLEN OLTMANNS**

Claimant

VS.

**DILLON COMPANIES, INC.**

Respondent

Self-Insured

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Docket No. 247,676

**ORDER**

Respondent appeals the September 27, 2001, Award of Administrative Law Judge Bruce E. Moore. Claimant was awarded a 33 percent impairment to the right hand for injuries suffered on September 23, 1998. The Appeals Board (Board) held oral argument on April 2, 2002.

**APPEARANCES**

Claimant appeared by her attorney, Randy S. Stalcup of Wichita, Kansas. Respondent appeared by its attorney, Scott J. Mann of Hutchinson, Kansas.

**RECORD AND STIPULATIONS**

The Board has considered the record and adopts the stipulations contained in the Award of the Administrative Law Judge.

**ISSUES**

What is the nature and extent of claimant's injury?

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Having reviewed the entire record, the Board finds the Award of the Administrative Law Judge should be affirmed.

The Award sets out findings of fact and conclusions of law in some detail, and it is not necessary to repeat those herein. The Board adopts those findings and conclusions as its own.

The Board finds it significant that while claimant alleges left hand involvement, there was no complaint in the record regarding claimant's left hand after the initial examination of orthopedic surgeon John A. Tanksley, M.D., on October 15, 1998. Claimant alleges she told the doctors and the physical therapists of her left hand problems, yet the medical records are void of any mention of claimant's left upper extremity symptoms after the initial phase of treatment. The Award is, therefore, limited to claimant's right upper extremity.

The Board affirms the Administrative Law Judge's finding that respondent has failed to prove any percentage of impairment preexisted claimant's injury. While it is true that claimant may have had a preexisting condition, the condition was asymptomatic and did not constitute an impairment prior to the injury suffered on September 23, 1998.

The Administrative Law Judge adopted the opinion of Daniel D. Zimmerman, M.D., that claimant had a 33 percent impairment to the hand. The emphasis was placed upon Dr. Zimmerman's opinion over that of Dr. Tanksley, the treating physician, because Dr. Zimmerman appeared to have a better grasp of the rating requirements of the AMA Guides to the Evaluation of Permanent Impairment, Fourth Edition, when he included impairment for claimant's loss of range of motion. The AMA Guides do appear to contemplate that range of motion will be assessed in this circumstance. As Dr. Tanksley did no range of motion studies in his rating evaluation, the Board adopts Dr. Zimmerman's opinion as the most persuasive.

The Board, therefore, finds that the Award of the Administrative Law Judge awarding claimant a 33 percent impairment to the right hand should be affirmed.

**AWARD**

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the Award of Administrative Law Judge Bruce E. Moore dated September 27, 2001, awarding claimant a 33 percent loss of use of the right hand, should be, and is hereby, affirmed.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of April 2002.

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BOARD MEMBER

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BOARD MEMBER

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BOARD MEMBER

c: Randy S. Stalcup, Attorney for Claimant  
Scott J. Mann, Attorney for Respondent  
Bruce E. Moore, Administrative Law Judge  
Philip S. Harness, Director